

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GARY AND )	APPEAL NO. 06-A-2158
MARLYS NICOLETTI from the decision of the )	FINAL DECISION
Board of Equalization of Fremont County for tax )	AND ORDER
year 2006. )	

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 24, 2006, in St. Anthony, Idaho, before Hearing Officer David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Gary Nicoletti appeared for Appellant. Assessor Ivel Burrell, Appraisers Kent Lords, Cathy Stegelmeir, and Bruce Hill appeared for Respondent Fremont County. This appeal is taken from a decision of the Fremont County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP002480000170A.

**The issue on appeal is the market value of a residential property.**

**The decision of the Fremont County Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$41,270, the improvements' valuation is \$149,138, totaling \$190,408. Appellant requests the land value be left at \$41,270, the improvements' value be reduced to \$110,580, totaling \$151,850.

The subject property is a 1,238 square foot single-family residence located on 3.36 acres of land. Appellant maintains only the improvements' value is under appeal.

Appellant did not believe subject was correctly assessed. It was explained subject is a very small dwelling consisting of a kitchen, living room, sewing room, two bathrooms, with minimal finishing throughout. There are no bedrooms and the kitchen has no built-in cabinets or counter tops. Color photographs were presented to demonstrate the lack of interior amenities, the minimal finishing, and the size of subject.

Appellant noted the assessor listed subject as having a total of five rooms.

The Assessor agreed to change the room count. No physical inspection of subject was made. The County submitted the following comparable sales:

	Sale Date	Sale Price	Square Feet	Year built	Acreage	Sale Price per square foot
<b>Subject</b>		<b>\$190,408 (assessed value)</b>	<b>1,238</b>	<b>1998</b>	<b>3.16</b>	<b>\$154 (assessed value)</b>
Comparable Sale 1	7/06	\$140,000	2,212	1986	1.6	\$63
Comparable Sale 2	4/06	\$165,000	1,536	1996	0.28	\$107
Comparable Sale 3	8/05	\$228,000	2,580	1983	6.43	\$88

The County stated subject's neighborhood had to be trended to be at 90% to 110% of market value. The sale analyzed to trend subject's subdivision was a 2,998 square foot single-family residence which sold for \$315,000 in April, 2005. Respondent noted assessed values were determined the same way in subject's area and therefore the assessed value of subject is equitable.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The Assessor has a statutory duty to value property.

#### 63-314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR.

(1) It shall be the duty of the county assessor of each county in the state to conduct and carry out a continuing program of valuation of all taxable properties under his jurisdiction pursuant to such rules as the state tax commission may prescribe, to the end that all parcels of property under the assessor's jurisdiction are assessed at current market value.

Idaho is a market value state for property tax purposes. Idaho Code § 63-201(10) defines market value:

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The burden of proof standard is one of preponderance, “. . . a preponderance of the evidence shall suffice[.]” Idaho Code § 63-511(4) (2006). Subject is found to have a higher assessed value than comparable properties and subject’s assessed value does not appear to include any appraisal adjustment for the lack of bedrooms, kitchen amenities and minimal finishing demonstrated by Appellant. The Board is convinced consideration should be given to the assessed value of the improvement. Therefore, this Board will modify the decision of the Valley County Board of Equalization.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Fremont County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease of \$28,472 to the improvements for a total assessed value of \$161,936.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 19<sup>th</sup> day of March, 2007.